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09-77738 / 0896411056

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In Re:
Charito Cruz

No. 09-29715-bam
Chapter 13

Debtor.

**EX-PARTE APPLICATION FOR
AN ORDER PURSUANT TO
362(c)(3)(A)**

Pulte Mortgage LLC, by and through counsel undersigned, requests from this Court an
Order Confirming that the Automatic Stay of 11 U.S.C. § 362 has not arisen with respect to the

1 Debtor due to the multiple filings as evidenced below.

2 This Motion is supported by the following Memorandum of Points and Authorities.

3 **MEMORNAUDM OF POINTS AND AUTHORITIES**

4
5 1. Pulte Mortgage LLC is the holder in due course of a Promissory Note executed
6 and delivered by Charito Cruz on or about July 14, 2005 in the original sum of \$379,404.00.
7 The Pulte Mortgage LLC Note is secured by a Deed of Trust dated July 14, 2005, and recorded
8 as a first position at the Clark County Nevada Recorder's Office, Instrument Number 2005-
9 07290003041. The Deed of Trust secures a first lien position against the real property
10 generally described as:
11

12 Parcel I:

13 Lot One Hundred Eighty-One (181) in Block Three (3) of AMBER RIDGE AT
14 MISSION HILLS PHASE 2 as shown by map thereof on file in Book 119 of Plats, page 3
15 and as amended by that certain "Certificate of Amendment" recorded October 7, 2004 in
16 Book 20041007 of Official Records, as Document No. 0001587 in the Office of the
County Recorder of Clark County, Nevada.

17 Reserving Therefrom, an easement for ingress, egress and enjoyment the Common Areas
18 as set forth in that certain Declaration of Covenants, Conditions and Restrictions for
19 AMBER RIDGE, a planned community recorded May 28, 2004 in Book 20040528, as
Document No. 0006051, as now or hereafter amended.

20 Parcel II:

21 An easement for ingress, egress and enjoyment the Common Areas as set forth in that
22 certain Declaration of Covenants, Conditions and Restrictions for AMBER
23 RIDGE, a planned community recorded May 28, 2004 in Book 20040528, as
Document No. 0006051, as now or hereafter amended.

24 Assessor's Parcel Number 179-31-811-062

25 Commonly described as: 208 Mission Verde Avenue, Henderson, Nevada

26 2. A true and a correct copy of the Pulte Mortgage LLC Note and Deed of Trust

1 are attached hereto, marked Exhibits "A" and "B" and incorporated herein by reference for all
2 purposes.

3 3. The Debtor filed the instant case on October 19, 2009.

4 4. Prior to the filing of the present case, Debtor filed an additional case as follows:
5 Case# 07-18730 filed on 12/26/2007 in the District of Nevada. This case was dismissed on
6 12/22/2008 as the debtor failed to make plan payments.

8 5. Prior to the filing of the present case, Debtor filed an additional case within a
9 one-year period as follows: Case# 09-18763 filed on 5/27/2009 in the District of Nevada.
10 This case was dismissed on 9/8/2009, as the debtor failed to make plan payments, and failed to
11 appear at the 341a hearing.

13 6. Secured Creditor requests that the Court enter an Order confirming that there is
14 no Automatic Stay affecting Secured Creditor with respect to the Debtor.

15 7. Bankruptcy Code Section 362(c)(3)(A) provides as follows:

16 If a single or joint case is filed by or against Debtor who is an individual in a case under
17 Chapter 7, 11, or 13, and if a single or joint case of the Debtor was pending within the
18 preceding one year period but was dismissed, other than a case we filed on a Chapter
19 other than Chapter 7 after dismissal under Section 707(b), (a) the stay under subsection
20 a with respect to any action taken with respect to a debt or property securing such debt
21 or with respect to any lease shall terminate with respect to the Debtor on the 30th day
22 after the filing of the later case.

23 Further, Bankruptcy Code Section 362(j) allows a party to request such "an
24 order under subsection (c) confirming that the automatic stay has been terminated."

25 8. As stated above, Debtor was a Debtor in a prior case pending within a preceding
26 one year period of time prior to the institution of the present case, and that prior case has been

1 dismissed. The Debtor did not seek an order to extend the automatic stay. Thus, the automatic
2 stay as section 362 expired on the 30th day after the filing of this present case.

3
4 9. Secured Creditor, Pulte Mortgage LLC requests an order from the Court
5 confirming that the Automatic Stay has expired in this case as to Secured Creditor Pulte
6 Mortgage LLC, and that Secured Creditor may proceed with foreclosure and eviction with
7 respect to the subject property described herein.

8 WHEREFORE, for all of the foregoing reasons, Pulte Mortgage LLC requests the
9 Court to enter an Order confirming that the Automatic Stay is not in effect with respect to the
10 Debtor of the subject property described in this motion.
11

12 Respectfully submitted, this _____ day of December, 2009.

13 WILDE & ASSOCIATES

14
15 By:  _____

16 Gregory L. Wilde, Esq.
17 Attorney for Secured Creditor
18 208 S. Jones Boulevard
19 Las Vegas, NV 89107
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1 Copies of the foregoing mailed this

2
3 14th day of December, 2009, to:

4
5 Charito Cruz
6 208 Mission Verde Ave.
7 Henderson NV 89002
8 Debtor

9 George Haines
10 1020 Garces Avenue
11 Suite 100
12 Las Vegas NV 89101
13 Attorney for Debtor

14 Kathleen A Leavitt
15 201 Las Vegas Blvd., So. #200
16 Las Vegas, NV 89101
17 Trustee

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By: Jamie Miller